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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ARIANNA BRITA JIMENEZ,

Defendant and Appellant.

H044989

(Monterey County

Super. Ct. No. SS170874A)

For the reasons explained below, we will dismiss appellant Arianna Brita Jimenez's appeal as moot.

I. FACTS AND PROCEDURAL BACKGROUND

The facts underlying Jimenez's convictions are not relevant to this appeal.

Jimenez was charged by information with second degree robbery (Pen. Code, § 211;¹ count 1); false imprisonment by violence (§ 236; count 2); assault by means likely to produce great bodily injury (§ 245, subd. (a)(4); count 3); dissuading a witness by force or threat (§ 136.1, subd. (c)(1); count 4); misdemeanor interference with a wireless communication device (§ 591.5; count 5); and misdemeanor engaging or agreeing to engage in prostitution (§ 647, subd. (b); count 6).

¹ Unspecified statutory references are to the Penal Code.

Jimenez subsequently pleaded no contest to count 3, assault by means likely to produce great bodily injury (§ 245, subd. (a)(4)), and count 4, dissuading a witness by force or threat (§ 136.1, subd. (c)(1)). At the July 2017 sentencing hearing, the trial court suspended imposition of sentence, placed Jimenez on probation for a period of three years, ordered her to serve 180 days in the county jail, and awarded her 104 days of credit for time served. The trial court also imposed a number of other conditions of probation and assessed various fines and fees. The trial court dismissed counts 1, 2, 5, and 6. Jimenez timely appealed.

II. DISCUSSION

In Jimenez's opening brief, she argues that a number of probation conditions imposed on her by the trial court are unconstitutional. Jimenez does not challenge on appeal any other aspect of the judgment.

In March 2019, after the case was fully briefed, appellate counsel for Jimenez informed this court that Jimenez's probation was revoked on "other grounds," and she is now serving a prison sentence. In response to a request for further briefing from this court, Jimenez's appellate counsel concedes that the appeal is moot but notes that this court has the discretion to address the underlying issues, notwithstanding the mootness of the appeal.

The Attorney General states that, because Jimenez is no longer subject to the challenged probation conditions, her appeal is moot. The Attorney General maintains that this court should not address the merits of Jimenez's claims.

We agree with the Attorney General that we should dismiss the appeal as moot without addressing the merits of Jimenez's claims. Even if we were to conclude that Jimenez's legal contentions related to her probation conditions have merit, we would be unable to grant her relief because she is no longer on probation. We are "not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before [us]." (*In re Sodersten*

(2007) 146 Cal.App.4th 1163, 1217.) Furthermore, Jimenez’s appeal does not present such “a novel question of continuing public interest” (*In re Stevens* (2004) 119 Cal.App.4th 1228, 1232), “capable of repetition, yet evading review” (*Ogunsalu v. Superior Court* (2017) 12 Cal.App.5th 107, 111), that we should review the issues she raises notwithstanding the mootness of her appeal.

III. DISPOSITION

The appeal is dismissed as moot.

DANNER, J.

WE CONCUR:

MIHARA, ACTING, P.J.

GROVER, J.

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